

MEMO ENDORSED

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Hon. Jessica G. L. Clarke
United States District Court, Southern District of New York
500 Pearl Street, Room 1040
New York, NY 10007

Re: ARPAD KELEMEN v. EMESE OLAH (22-CV-566)

November 2, 2023

Dear Judge Clarke,

I write to you in connection with the above-referenced matter, requesting that the Court extend the deadline for the Parties to submit a joint letter containing, among other things, the names of proposed arbitrators. Recently, the Court granted [28] Defendant's request for an extension and set a deadline of November 2, 2023. Plaintiff requests that the Court extend the deadline to file the joint letter to November 9, 2023 and also to briefly clarify its latest [30] order granting Defendant's request for an extension to file the joint letter.

Counsel for Plaintiff is traveling most of this week and has very limited access to e-mail, as initially this week contained no court deadlines and counsel planned his travel schedule accordingly. Until today, the Parties have been unable to finalize their letter. This is Plaintiff's first request for an extension. Defendant's counsel does not object to the request.

On October 12, 2023, the Court set October 26, 2023 as a deadline for the parties to file a joint letter containing a list of four to six proposed arbitrators. To comply with the Court order, Plaintiff filed a joint letter, containing the jointly agreed language addressing the jurisdictional question, and all four arbitrators the parties had agreed upon until 8 PM on October 26, using the most minimal description for each, as Defendant's counsel has requested from Plaintiff on the afternoon of October 26, in response to and following the review of Plaintiff's draft of the joint letter. Notwithstanding the above, after 8 PM on October 26, Defendant requested an extension of one week to file the joint letter, citing inability to review and comment on the draft counsel for Plaintiff prepared. The Court granted the extension.

It is respectfully requested that the Court clarify the order granting an extension to file the joint letter containing the names and qualifications of the proposed arbitrators, as the Parties are in disagreement over the interpretation thereof. Plaintiff's position is that the extension is intended to provide an opportunity for Defendant's counsel more time to review and discuss with his client the drafts sent by opposing counsel. It is Plaintiff's position that the extension is not intended to provide more time to find and propose two more arbitrators unilaterally, after the Parties have already decided on all four proposed arbitrators, and identified them to the Court. Defendant's interpretation is that the

extension not only provides him extra time to review and discuss the drafts, but also provides him the opportunity to find and propose more arbitrators past the initial deadline set by the Court.

On October 26, counsel for Defendant indicated to the Court and Plaintiff's counsel that it does not have reception on the afternoon of October 26 and also it has unexpected child care duties, therefore, it is unable to review the drafts circulated by Plaintiff's counsel. This unexpected inability to finalize the joint letter followed counsels' prior agreement to file the joint letter containing four proposed arbitrators, not five or six. On October 25 and during October 26, Defendant's counsel has agreed to finalize the joint letter containing four proposed arbitrators. In fact, Defendant's counsel read opposing counsel's draft joint letter containing the four proposed arbitrators and has requested certain changes in response.

At no point until the extension request did Mr. McGuire indicate that he wishes to add 2 more candidates for the Court's consideration. Making a request for extra time so Defendant can later contact two more people less than four hours prior to the deadline set by the Court 2 weeks ago is inappropriate, at best and also violates the Court's own rules requiring that all regular extension requests be made at least 48 hours prior to the deadline. For the avoidance of doubt, Defendant has not contacted the two additional candidates it wanted to add by the initial deadline set by the Court and has not indicated such to Plaintiff. This was a last-second strategic decision Defendant wanted to make, hiding it under the cloak of an extension request to "review" the draft of the joint letter.

Plaintiff sought out and proposed the best possible candidates within the Court-allotted time. Defendant has not provided reasons why it should be allowed more time to propose and add two more potential arbitrators past the deadline. If Defendant were allowed the opportunity to add two more proposed arbitrators, then the identity of the proposing party would be revealed, which the Court directed to keep anonymous. The identity of the proposing side is important, as indicated by the fact that the Court directed the parties to keep confidential the name of the proposing party for each candidate.

Both Parties were provided the same amount of time to seek out their best candidates and finalize the joint letter in a timely fashion. Indicating 4 hours before the deadline that one party wishes seek out and add more proposed candidates unilaterally to the four agreed-upon proposed arbitrators would unfairly prejudice Plaintiff, because it would provide Defendant with more time to seek out its candidates and add two more candidates in addition to the four already agreed to until merely hours before the deadline.

A fair proceeding should allow both sides to have the same opportunity to make their selections. Just like in chess, no side should have more time than the other to decide on its move, and certainly should not be afforded the opportunity to make extra moves beyond the time limit set at the beginning of the game.

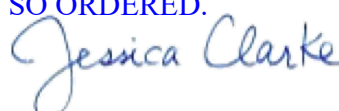
Respectfully submitted,

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The deadline to submit the final version of the joint letter, *see* ECF No. 26, is hereby EXTENDED to **November 9, 2023**. The parties shall submit four proposed arbitrators, not indicating which party suggested each candidate. No further extensions will be granted.

The Clerk of Court is directed to terminate ECF No. 31.

SO ORDERED.



JESSICA G. L. CLARKE
United States District Judge
Dated: November 3, 2023
New York, New York